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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/586,848	07/20/2006	Ryoji Fujioka	17276/002001	3446
22511	7590	03/06/2008		
OSHA LIANG L.L.P. 1221 MCKINNEY STREET SUITE 2800 HOUSTON, TX 77010			EXAMINER NGUYEN, SIMON	
			ART UNIT 2618	PAPER NUMBER
			NOTIFICATION DATE 03/06/2008	DELIVERY MODE ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

docketing@oshaliang.com  
buta@oshaliang.com

<p align="center"><b>Office Action Summary</b></p>	<p><b>Application No.</b></p> <p align="center">10/586,848</p>	<p><b>Applicant(s)</b></p> <p align="center">FUJIOKA ET AL.</p>	
	<p><b>Examiner</b></p> <p align="center">SIMON D. NGUYEN</p>	<p><b>Art Unit</b></p> <p align="center">2618</p>	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 16 January 2008.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-10 and 15-17 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) \_\_\_\_\_ is/are rejected.
- 7) ☒ Claim(s) 1-10 and 15-17 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## DETAILED ACTION

### *Claim Rejections - 35 USC § 103*

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1, 3-10, 16-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kanzaki (An English-Japanese Translation of JP 2005-056000 A) in view of Cannon et al. (US 2003/0032460 A1).

Regarding claim 1, Kanzaki discloses identifying a driver who is driving and talking on a mobile phone (page 4, paragraphs 1, 4-5), comprising: a storage for storing a face data of a driver and identification of a mobile telephone used by the driver for each drivers; a driver id means for identifying a current driver by a facial recognition (pages 5-6, paragraphs 12-14, pages 9 paragraphs 31-33, pages 12-13 paragraphs 51-52, 56) to whether the driver is talking and holding the phone or the driver is talking on the telephone via a hand-free equipment (page 13 paragraph 52). It should be noted that since Kanzaki discloses the driver is talking on the phone over the hand-free equipment which means the telephone can be switched from a phone mode to a hand-free mode, which is known to those skilled in the art. However, Kanzaki does not specifically disclose switching the mobile phone to a drive (hand-free) mode when the system detects the driver is driving the car.

Cannon discloses a vehicle communication system (abstract), comprising: identifying a driver who is driving the vehicle (figs. 3, 9, abstract, paragraphs 40, 75-78); switching a mobile phone to a hand-free mode when the driver is driving the vehicle (figs. 5, 8, pars. 66-74). It should be noted that Cannon discloses the identification of the driver can be used such as a set of pre-programmed/ or pre-trained, a detected adjustment of the driver's seat, or **other physical technique** may be implemented to determine which user is the driver of the vehicle, or detecting via a owner car keys...etc..(paragraphs 75-78). Since Cannon discloses the other physical technique can be used to identify who is driving the vehicle, it is obvious that a facial image is a physical technique to detect the driver, which is known to those skilled in the art.

Regarding claim 3, this claim is rejected for the same reason as set forth in claim 1. However, both do not specifically disclose releasing a hand-free mode when the driver cannot be identified after a predetermined time.

It should be noted that Cannon discloses a multi-user hand-free device used in the vehicle for a plurality of wireless phones, the driver who is driving the vehicle, gives a priority use of the hand-free mode when the driver receives an incoming call while other passengers with wireless phones use hand mode (abstract, figs. 5, 6, 8, paragraphs 68-74), wherein the driver who is driving the vehicle is identified by the physical technique (paragraphs 40, 75-78, figs. 3, 9). Since there are the plurality of mobile phones in the vehicle want to access the hand-free mode, if the system cannot detect who is driving the vehicle in order to set priority for the driver to use the hand-free mode, the hand-free mode sets priority use to the driver must release after a

predetermined time in order to make room to other mobile phones in the vehicle to use the hand-free mode which is known to those skilled in the art.

Regarding claim 4, this claim is rejected for the same reason as set forth in claim 1.

Regarding claim 5, this claim is rejected for the same reason as set forth in claim 3.

Regarding claims 6-7, 16-17, Cannon further discloses the mobile phone of the driver is switched to the drive (hand-free) mode and set to control during driving (paragraphs 68-77).

Regarding claim 8-10, Kanzaki discloses the identification of the drivers are stored in an external database (control center) (page 6 paragraph 15-17) and in the vehicle information storage section (page 13 paragraph 56), wherein the identification stored in the control center can be used to a wide are network which is known to those skilled in the art. It should be noted that Lee (US 2004/0214596) also discloses the identification of the drivers stored in the telephone company system (fig.3, paragraphs 37, 57, 75).

3. Claims 2, 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kanzaki (An English-Japanese Translation of JP 2005-056000 A) in view of Cannon et al. (US 2003/0032460 A1) as applied to claim 1, and further in view of Lee (US 2004/0214596 A1).

Regarding claim 2, in the modified Kanzaki, Cannon further discloses switching the mobile phone from a hand mode to a hand-free mode (paragraphs 58, 66-68, 72). However, the modified Kanzaki fails to teach a message recording mode.

Lee discloses a facial data used for identifying a driver who is driving the vehicle (paragraph 75), a recorded message used to responsive to a call when the driver is driving the vehicle (paragraphs 59, 65, 96). Therefore, it would have been obvious to one skilled in the art at the time the invention was made to have modified Kanzaki, modified by Lee in order to let a caller to know that a called party is driving and can not receive the call.

Regarding claim 15, this claim is rejected for the same reason as set forth in claim 6.

### ***Response to Arguments***

4. Applicant's arguments with respect to claims 1-10, 15-17 have been considered but are moot in view of the new ground(s) of rejection.

The previous Office Action indicated the allowable subject matter to claims 1-10, 15-17 has been reversed. The new art of record issued to Kanzaki (JP 2005-056000), Cannon et al. (US 2003/0032460 A1), and Lee (US 2004/0214596 A1) have been used to reject the claimed invention. The examiner apologizes for the reversion.

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Simon Nguyen whose telephone number is (571) 272-

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7894. The examiner can normally be reached on Monday-Friday from 7:00 AM to 6:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Edward F. Urban, can be reached on (571) 272-7899. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

SIMON D NGUYEN  
Primary Examiner  
Art Unit 2618

February 19, 2008

SIMON NGUYEN  
PRIMARY EXAMINER

